

Notice of Allowability

Application No.

10/070,766

Examiner

Sabiha Qazi

Applicant(s)

GLOCK, JUTTA

Art Unit

1616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to November 22, 2004.
2. ☒ The allowed claim(s) is/are 1-6 AND 8-12 (RE-NUMBERED AS 1-11).
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

Examiner's Amendment

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Attorney Rose Allen on 12/13/04.

The application has been amended as follows:

Cancel claim 7.

Examiner's Statement of Reasons for Allowance

Claims 1-6 AND 8-12 (RE-NUMBERED AS 1-11) are allowed, after the amendments filed on November 22, 2004.

The closest prior art are World Patent WO 98/13361 (TOBLER et al.) and the *Physiology of Herbicide Action* (DEVINE et al.) and US Patent 6,221,810 (KRUGER et al.) reference.

The TOBLER et al. reference teaches the antidotes in antidotal composition for the control of grasses and weeds, especially of maize, cereals, and soybeans. The reference teaches the combinations of safeners (the antidotes) of formula I with the herbicides of formulas II-VI in various ratios. See paragraphs 2-7 on page 46. Furthermore, the reference teaches that depending on the type of the active ingredients of formulas II-VI to be formulated, various surfactants

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having various surface-active compounds may be selected. See the entire document, especially claims, examples, and the cited sections above.

The DEVINE et al. reference teaches the three main safeners groups and their different effects. The mood of action of safeners and broad variety of possible safener-herbicide interactions are summarized into Figure 17.9 on page 381. See the entire document, especially claims, examples, and Section 17.4 on page 376.

KRUGER reference teaches 3-hydroxyl-4-aryl-5-oxo-pyrazoline derivatives as herbicides. Furthermore, it teaches that in combating weeds, these herbicides, insecticides, acricides, nematocides, plant nutrients etc can also be used as mixtures with known herbicides. See the entire document especially compounds of formula (I) in col 1; 1lines 1-67 in col. 33; lines 1-1-67 in col. 34; lines 1-31-in col. 35; lines 24-65 in col. 36; examples and claims.

Instant claims differ from the reference in claiming a composition of the combination of the compounds of Formula I and Formula IIa and methods of selectively controlling weeds and grasses of crops of useful plants. Furthermore, compounds of Formula Ia has also been claimed (claim 7). The results of the combination of herbicide I and safener IIa₁ are disclosed in Tables B1 to B3 on pages 29 to pages 33 in the Specification, where the results of the combination of the said herbicide and safener clearly show unexpected results on various plants.

The prior does not teach nor fairly suggest the combination of the compounds of Formula I and Formula IIa and methods of selectively controlling weeds and grasses of crops of useful plants.

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Examiner thanks Attorney Rose Allen for her extended cooperation during the prosecution of this application.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sabiha Qazi whose telephone number is (571) 272-0622. The examiner can normally be reached on any business day.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Kunz can be reached on (571) 272-0887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Monday, December 13, 2004


SABIHA QAZI, PH.D
PRIMARY EXAMINER